to induce the court to inquire into the legality of the acts of the plaintiff in practicing medicine and in conducting a hospital, matters which are clearly separate and distinct from the issue before the court, which is the right of defendant to use the word Pierce as a trade-mark in competition with the plaintiff's well-known remedies. The maintenance of the hospital and the indulgence in practice are admitted to be incidental to and separate from the main business of the plaintiff which is the manufacture and sale of the remedies. However, the court is divided on the application of the limitation on the maxim which the defendant sets up and solves the question by leaving it "unconsidered and undetermined."

TRUSTEE—BREACH OF TRUST—PROFITS.—Defendant was the legal representative of a widow who, before her death, had been trustee and tenant for life of the estate of her husband. The widow had made unauthorized investments in foreign mortgages and had received a greater profit than she would have received from authorized investments. The capital had not been decreased. Plaintiffs, who are the remaindermen under the husband's will, now attempt to force the defendant to account for the excess of income actually received over that obtainable from authorized investments. *Held*, the remaindermen can not recover. *In re Hoyles* [1912] 1 Ch. D. 67.

The general rule is that any gain in the value of trust property is regarded as an accretion to the corpus of the trust estate, and belongs to the remaindermen. HILL, TRUSTEES (4th Am. Ed.) 386; *Graham's Estate*, 198 Pa. St. 216; *Hubley's Estate*, 16 Phila. (Pa.) 327; *Stewart et al.* v. *Phelps et al.*, 75 N. Y. Supp. 526. The English courts, however, have held that a trustee who has paid the excessive income to another person who was tenant for life, is not bound to repay the excess to a remainderman when the capital was intact. *Stroud* v. *Gwyer* (1860) 28 Beav. 130; *Slade* v. *Chaine* [1908] 1 Ch. 522. The principal case extends the rule of the last cases cited, and further protects the trustee and tenant for life by holding that the remainderman can not recover even when the trustee and tenant for life is the same person. The case seems to be a liberal one as far as the rights of the trustee are concerned.

WILLS—CONSTRUCTION—GIFT TO SON AT TWENTY-SIX—VESTING.—Testator bequeathed a fourth part of certain property, severed from the rest of his estate and held in trust, together with the accumulations of the income thereof, to his son "when and so soon as he shall attain the age of twenty-six years" and until that age is attained to pay to him a part of the income. *Held*, that in the absence of a gift over the testator must have intended the legacy to be vested and therefore not to be diverted on the death of the son before arriving at the age of twenty-six. *In re Nunburnholme* (*Wilson* v. *Nunburnholme*) (1911) 81 L. J. Ch. 85.

A gift to the legatee "when and so soon as" he reaches a given age standing unqualified and uncontrolled is conditional. The words "when" and "if" used in reference to an uncertain event have a similar meaning; they denote the time when the gift is to take effect. *Hanson* v. *Graham*, 6 Ves. 239, 5 GRAY'S CASES, PROPERTY, 231. Until then the legacy is contingent upon the fulfilment of the condition and liable to lapse. 30 AM. & ENG. ENCYC. LAW, 771, 774.